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09/939,782	08/27/2001	Jason D. Alie	18360/218130	2833

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ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE, NC 28280-4000

EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/939,782

Applicant(s)

ALIE ET AL.

Examiner

Robert M. Pond

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,11-21,24,25,28,29 and 31-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11-21,24,25,28,29 and 31-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Response to Amendment**

The Applicant amended Claims 1, 21, 25, 35, 36, 37, and 38 and newly added Claims 42-45. All pending claims (1-3, 5-9, 11-21, 24, 25, 28, 29, and 31-45) were examined in this final Office Action necessitated by amendment.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 27 December 2004, with respect to the rejection(s) of claim(s) pending under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tozzoli (Paper #7) in view of Dutta as necessitated by amendment. Tozzoli and Dutta teach buyers and sellers using an escrow service to reduce international trade risks, moving sellers product to a shipment preparation location (an intermediate location), and releasing shipment upon payment by the buyer to the escrow service.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would

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have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-3, 5-9, 11-21, 24, 25, 28, 29, and 31-45 are rejected under 35 USC 103(a) as being unpatentable over Tozzoli et al. (Paper #7, US 5,717,989 hereinafter referred to as "Tozzoli") in view of Dutta (US 6,865,559).**

Tozzoli teaches a system and method of conducting international trade between buyers, sellers, and funders connected electronically to a computer-based trade system (please see abstract; Fig. 4; col. 4, lines 50-55). Tozzoli further teaches:

- *Delivering based on guaranteed payment or non-guaranteed payment:*  
prior art system teaches using letter of credit system to guarantee payment; trade system provides method of guaranteeing payment (see at least abstract; col. 7, lines 6-10); buyer instructs trade system to forward proposed purchase order with funder's payment guarantee; parties may elect to proceed with the transaction using other non-system avenues for payment guarantee; and seller may accept or decline proposed purchase order (please note examiner's interpretation: parties elect not to use other payment guarantees and seller accepts the proposed purchase order resulting in seller accepting a non-guaranteed payment) (see at least col. 7, line 64 through col. 8, line 6).

- Receiving the package at a first location using a delivery system: seller delivers goods to carrier in a first country (please note: a first location) (see at least Fig. 1 (5A); Fig. 3a (680, 690); col. 8, line 64 through col. 9, line 12; col. 16, lines 12-18).
- Receiving shipment order information on the package using an information system: (see at least Fig. 3a (680, 690); col. 9, lines 1-20; col. 16, lines 12-25).
- Moving the package toward an intermediate location using the delivery system: carrier places goods in transit to buyer's broker in a second country via customs (please note examiner's interpretation: intermediate locations in a second country) (see at least Fig. 1 (5B); Fig. 3b(820); col. 9, lines 22, 60-64; col. 16, lines 39-40).
- Transmitting a hold command to the delivery service system using the information system: trade system issues advisory messages to buyers, sellers, and carriers (see at least Fig. 2b (330); Fig. 3a (660); Fig. 3b (800)); automatically notifying a carrier to hold a shipment (e.g. an embargo from one country to another) (see at least col. 17, lines 31-35).
- Transmitting a release command to the delivery system using the information system: system transmits authorization to the carrier in the first location to release goods for delivery (see at least Fig. 3c (930); col. 17, lines 1-5).

- Releasing the package for delivery to the purchaser in response to the release command: carrier receives authorization to release goods for delivery (see at least Fig. 3c (930); col. 17, lines 1-5).
- Delivering the package to a purchaser location after releasing the package: buyer receives package from broker after delivered goods clear customs (see at least Fig. 1 (10); col. 2, lines 46-51).
- Transmitting
  - i. a distribution command to the payment system using the information system after receiving the delivery verification:

Payment due upon receipt of delivered goods: payment made after the buyer receives the delivered goods shipped through a port of entry (please note: trade system uses same prior art delivery system as disclosed in Fig. 1) (see at least Fig. 1; col. 2, lines 27-51); Payment due upon shipment: trade system issues payment distribution once terms for payment are met and authorizes carrier to ship goods (see at least Fig. 3a; Fig. 3b (790, 820); Fig. 3c (880, 930); col. 15, line 14 through col. 17, line 16); Payment made after carrier ships and buyer specified payment date: system transmits carrier's freight invoice to seller (please note examiner's interpretation: invoice is proof of at least goods in transit to buyer), system transmits seller's invoice to buyer and funder, buyer responds by creating a payment advice document which advises

the seller of the payment date and instructs a financial institution to transfer payment to the seller (see at least col. 17, lines 17-25).

ii. distributing the payment out of escrow to the seller's funds account:

please see below.

- Clearing the package for

- i. holding the package at the intermediate location: delivery system ships to intermediate location Country B broker (please note examiner's interpretation: held at import broker until cleared for release to purchaser) (see at least Fig. 1 (5B, Country B, Broker); col. 2, lines 45-46).

- ii. export from the first location using an export brokerage of the delivery system: seller exports from Country S using freight forwarder (please note examiner's interpretation: export broker) or carrier (see at least Fig. 1 (Country S); Fig. 3a (680); col. 16, lines 12-13).

- iii. import to the intermediate location using an import brokerage of the delivery system: delivery system ships to intermediate location Country B broker (please note examiner's interpretation: held at import broker until cleared for release to purchaser) (see at least Fig. 1 (5B, Country B, Broker); col. 2, lines 45-46).

- Delivery of the package using a local delivery system after releasing the package: import broker arranges for delivery to the buyer after releasing to the buyer (see at least col. 2, lines 45-51).
- Recoding shipment order information and transmitting the shipment order information to the delivery service system: shipment information prepared and transmitted to the delivery service system (see at least Fig. 3a (620, 680, 690); col. 15, lines 22-25; col. 16, lines 12-18); buyer account information, value of goods, description, order number, credit limit, pending amounts (see at least col. 10, lines 42-55).
- Transmitting notification information to the purchaser using the shipment order system
  - i. notification information includes a description of the package: system uses advisory messaging system for notifications; transmits approved purchase order information; bill of lading matches original purchase order; buyer notification of funds transfer (see at least Fig. 2b (290,330), Fig. 3c (Buyer: 880, 890); col. 16, lines 61-67).
  - ii. link to payment instructions on a secure Internets site of the information system: hub/spoke system with access links to third-party networks using secure communications (please note: Internet is used as a third-party network) (see at least Fig. 4 (Third-party network); Fig. 5 (70); col. 4, line 50 through col. 5, line 35).



- Holding the package at the intermediate location using the delivery system in response to the hold command:
  - i. shipment order information includes export and import information:  
shipping documents prepared; export and import documents; trade system exported goods clear Country S as evidenced by carrier shipping invoice; shipped goods reach Country B and are cleared; (see at least Fig. 1; Fig. 3a (680); col. 1, lines 36-47; col. 16, lines 12-14). Please note: implicit hold command until released.
  - ii. clearing the package for import: goods clear customs (please note examiner's interpretation: trade system provides documents necessary to comply with Country B's import clearing requirements) (see at least col. 2, lines 45-48).
  - iii. Holding the package at an intermediate location: package held at customs location of purchaser's country as noted above.

Tozzoli teaches all the above as noted under the 103(a) rejection and teaches a) transmitting payment verification, b) shipping goods to an intermediate location being an import broker location, c) payment after receipt of goods shipped by a carrier, d) the buyer taking receipt of goods from an intermediate location, and e) holding goods at an intermediate location, but does not disclose holding the payment in escrow and releasing shipment from an intermediate location. Dutta teaches a system and method of conducting trans-country electronic commerce

without escrow services or using an escrow payment service, wherein buyer's payment is held in escrow, and seller shipping upon notification of buyer making payment into escrow. Dutta teaches an intermediate location performing shipment preparation services (please note examiner's interpretation: intermediate location holds shipment until release conditions apply (e.g. buyer payment received in escrow)) (see at least col. 8, lines 3-65). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method Tozzoli to implement an escrow payment service with shipment holding at an intermediate location until release condition occurs as taught by Dutta, in order to reduce buyer-seller risks, and thereby attract buyers and sellers to the service.

Tozzoli teaches all the above as noted under the 103(a) rejection but does not disclose distributing the payment out of escrow to the seller. Dutta teaches distributing the payment out of escrow to the seller (see at least abstract; Fig. 2A (206, 208); col. 6, lines 24-37). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to disclose distributing funds to the seller as taught by Dutta, in order for the seller to receive payment, and thereby attract sellers to the service.

*Pertaining to system Claims 1-3, 5-9, 11-21, 24, and 35-41*

Rejection of Claims 1-3, 5-9, 11-21, 24, and 35-41 is based on the same rationale as noted above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

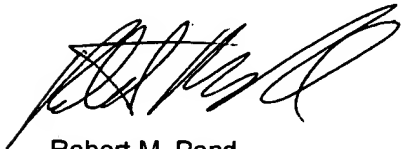
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. M. Pond', with a stylized flourish at the end.

Robert M. Pond  
Primary Examiner  
March 21, 2005